



Patent
015110.0085.UTL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Applicant: Michael R. Briggs, *et al.*

Serial No.: 09/463,542

Filed: January 21, 2000

For: HUMAN PEROXISOME
PROLIFERATOR ACTIVATED
RECEPTOR GAMMA (PPAR γ)
GENE REGULATORY
SEQUENCES AND USES
THEREFOR

Group Art Unit: Unknown

Examiner: Unknown

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DEC 16 2002

OFFICE OF PETITIONS

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181

Box DAC
Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

A Notification of Abandonment was mailed by the Patent Office in the above-captioned application on October 25, 2000. Because Applicants did not timely receive the Notification of Missing Requirements mailed March 15, 2000, upon which the Notification of Abandonment is based, Applicants hereby petition under 37 C.F.R. § 1.181 to withdraw the holding of abandonment.

CERTIFICATE OF MAILING
(37 C.F.R. § 1.10)

I hereby certify that this paper (along with anything referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

EL573388443US
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September 6, 2002
Date of Deposit

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Dorothy L. Chambers

Name of Person Mailing Paper

Signature of Person Mailing Paper

Applicants recently inquired with the Patent Office as to the status of the above-captioned application. Applicants were informed by the Patent Office that a Notification of Abandonment had been mailed on October 25, 2000. As Applicants had no record that the application had become abandoned, Applicants requested a copy of that Notification of Abandonment. Applicants received a copy of the Notification via facsimile on August 26, 2002, along with a copy of the Notification of Missing Requirements originally mailed by the Patent Office on March 15, 2000. The Notice of Abandonment states that the application was abandoned because Applicants failed to properly respond to the Notification of Missing Requirements that was mailed on March 15, 2000. As explained below, Applicants' did not respond to the Notification of Missing Requirements of March 15, 2000 because Applicants did not timely receive it. Applicants first received the Notification of Missing Requirements on August 26, 2002.

Applicants' representatives moved their offices from Lyon & Lyon LLP, 633 West Fifth Street, Suite 4600, Los Angeles, CA to Brobeck, Phleger & Harrison LLP, 550 West "C" Street, San Diego, CA throughout February and March of 2000. Correspondence was forwarded from Lyon & Lyon to Brobeck, Phleger & Harrison as a routine matter. But Applicants' representatives did not receive the Notification of Missing Requirements that was mailed by the Patent Office on March 15, 2000. In accordance with MPEP § 711.03(c)(II), Applicants' undersigned representative hereby states that the Notification of Missing Requirements was not received by Applicants' representatives and that a search of the file jacket and docket records indicates that the Notification of Missing Requirements was not received. Also in accordance with MPEP § 711.03(c)(II), Applicants enclose with this petition a copy of the docket record where the nonreceived Notification of Missing Requirements would have been entered had it been received and docketed. The enclosed docket

record shows that Applicants' representatives had twenty-two other Notification of Missing Requirements docketed throughout the relevant time period, but did not have a docket entry for the nonreceived Notification of Missing Requirements. The Reference Number and Mark/Title entries have been redacted from the docket report in order to maintain the confidentiality of our clients' information in the event that this application issues as a patent. The Notification of Missing Requirements docket entries are identified on the enclosed docket report as "MISSING PRTS" or "MISSING PARTS." As can be seen, none of the docket entries are due on April 15, May 15, June 15, July 15, August 15, or September 15, 2000.

Applicants' submit that this petition and the enclosed docket report demonstrate that Applicants did not receive the Notification of Missing Requirements when it was originally mailed by the Patent Office on March 15, 2000, and that the Notification of Abandonment is based upon Applicants' failure to respond to the Notification of Missing Requirements of which Applicants were unaware.

Accordingly, Applicants hereby petition under 37 C.F.R. § 1.181 to withdraw the holding of abandonment. No fee is believed due in connection with this petition, but if any fee is due, the Commissioner is hereby authorized to charge any fee required to our Deposit Account No. 50-1273.

Respectfully submitted,

BROBECK, PHLEGER & HARRISON LLP

Dated: September 6, 2002

By: Jessica R. Wolff
Jessica R. Wolff
Reg. No. 37,261

JRW/dlc

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Missing Requirements of March 15, 2000 because Applicants did not timely receive it. As explained in that petition, Applicants first received the Notification of Missing Requirements on August 26, 2002. Applicants now file this Petition to Revive under 37 C.F.R. § 1.137 because Applicants' Petition to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181 was denied (Decision on Petition enclosed herewith).

Pursuant to 37 C.F.R. § 1.137(b)(3), the undersigned avers that the entire delay in filing the required reply from the due date of April 15, 2000 until the filing of a grantable petition was unintentional.

In support of this petition, Applicants herewith submit:

(1) the executed Declarations of inventors Michael Briggs, Johan Auwerx, Lluís Fajas and Regis Saladin in response to the Notification to File Missing Requirements; and

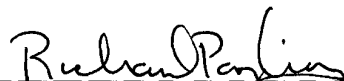
(2) a check in the amount of \$1,280.00 for the required petition fee under 37 C.F.R. § 1.17(m).

No additional fee is believed due in connection with this petition, but if any such fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 50-1273 for the appropriate amount.

Respectfully submitted,

BROBECK, PHLEGER & HARRISON LLP

Dated: December 11, 2002

By: 
Richard H. Pagliery
Registration No. 44,276

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